

Judge: Timothy W. Dore
Chapter: 13
Hearing Date: September 19, 2018
Hearing Time: 9:30 am
Hearing Location: U.S. Bankruptcy Court
700 Stewart St #8106
Seattle, WA 98101

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

In Re:

SINPRASEUT PHOMMA,

Debtor.

IN CHAPTER 13 PROCEEDING

NO. 18-12071

TRUSTEE'S OBJECTION TO CONFIRMATION

The Trustee objects to confirmation of the debtor's plan, filed August 04, 2018 (ECF No. 26) as follows:

(1) On July 30, 2018, the Court ordered the debtor to file, note and properly serve a feasible amended plan (ECF No. 22; ¶ 2). While the debtor filed an amended plan, based on the docket, she did not move for approval of the amended plan ("note . . . [the] amended plan") or serve the amended plan and the motion she should have filed.

The debtor thus failed to comply with the Court's July 30, 2018 order. (2) For these same reasons, the debtor failed to provide due process to creditors and / or parties in interest. In any proceeding which is to be accorded finality, due process requires notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Mullane v. Central Hanover Bank & Trust Co. et al.*, 339 U.S. 306, 314 (1950). (3) Section X.B. of the

debtor's proposed amended plan provides that the "Second mortgage to ServiSolutions is not due until the sale of the property and will not be paid or due during the life of the plan." Contemporaneous with the amended plan, the debtor filed a declaration asserting that she has "a second mortgage with ServiSolutions which is not due until the sale of my home and will not be paid or due during the life of the plan" (ECF No. 24; ¶ 2). That declaration is not overly helpful, as it is essentially just a recitation of the provision included in the debtor's proposed amended plan. Given the provision in the proposed amended plan includes a factual finding without adequate documentation to substantiate the

TRUSTEE'S OBJECTION TO CONFIRMATION - 1

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assertion, that provision does not seem appropriate for the amended plan. In any event, the Trustee raises this issue
for the Court's consideration. (4) The Trustee reserves the right to assert additional bases for this
objection.

THE TRUSTEE REQUESTS:

That the Court enter an order denying confirmation of the debtor's plan, and setting deadlines for filing and noting
a feasible amended plan.

Dated: September 10, 2018

/s/ K. Michael Fitzgerald
K. Michael Fitzgerald, WSBA #8115
Chapter 13 Trustee